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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,893	04/25/2001	Charles E. Wheatley III	QCPA453B1C1	6708
23696	7590	10/18/2005	EXAMINER	
QUALCOMM, INC 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			RYMAN, DANIEL J	
			ART UNIT	PAPER NUMBER
			2665	
DATE MAILED: 10/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/841,893

Applicant(s)

WHEATLEY ET AL.

Examiner

Daniel J. Ryman

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20, 31, 32, 34-39, 50, 51 and 53-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 8-16, 18-20, 32, 34-39, 51 and 53-58 is/are allowed.
- 6) ☒ Claim(s) 7, 17, 31 and 50 is/are rejected.
- 7) ☒ Claim(s) 31, 35-39, 50 and 54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 7, 17, 31, and 50 have been considered but are moot in view of the new ground(s) of rejection.
2. Regarding claims 1-20, the terminal disclaimer is sufficient to overcome the double patenting rejection.

### ***Claim Objections***

3. Claim 31 is objected to because of the following informalities: in line 7, "identify" should be "the identity"; in line 9, "distance" should be "the distance"; and in line 17, "provide" should be "provided". Appropriate correction is required.
4. Claims 35 and 54 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Due to the changes in dependency of the claims and the amendments to the claims upon which claims 35 and 54 depend, claims 35 and 54 now recite limitations which are cited in the claims upon which claims 35 and 54 depend.
5. Claims 36-39 are objected to because of the following informalities: the phrase "at least one base station" should be "at least one other base station" since "the base station" is already connected to the mobile unit, such that the phrase "at least one base station" includes "the base station" (see claim 36, line 2; claim 37, lines 2 and 8-10; claim 38, line 2; and claim 39, line 2). Appropriate correction is required.

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6. Claim 50 is objected to because of the following informalities: in line 8, "the received signals" should be "received signals". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 31 and 50 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 31 and 50 require estimating the distance between the base station and the mobile unit by determining the round trip time between the mobile unit and two other base stations (first and second base station). The specification does not list using the round trip times between the mobile and two additional base stations as a way to determine the distance between the mobile and the base station (§ 1110). Since this application is a continuation application, these claims are deemed to be new matter, even though the claims were part of this application's originally filed set of claims. Other than the rejections under 35 U.S.C. 112, claims 31 and 50 are allowable.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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10. Claims 7, 17, and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claims 7 and 17 teach “selecting a mobile station closest from the first base station.” It is unclear whether Applicant meant “selecting a mobile station closest to the first base station” or “selecting a mobile station furthest from the first base station.” If the former interpretation is the correct one, then the claim is not supported by the specification. If the latter interpretation is the correct one, then the claim is duplicative of claims 6 and 16.

12. Claim 50 discloses that both the processor (lines 6-9) and the receiver (lines 17-20) adjust the timing of the base station in accordance with the received signals. The specification teaches that the processor adjusts the timing of the base station (§ 1107). Applicant should amend the claim to require that only the processor perform the timing adjustment.

***Allowable Subject Matter***

13. Claims 1-6, 8-16, 18-20, 32, 34-39, 51, and 53-58 are allowed.

14. Regarding claims 32 and 51, the prior art does not disclose or fairly suggest adjusting the timing of the base station in accordance with an actual and an estimated PN offset of the mobile station.

15. Regarding claims 34-39 and 53-58, the prior art does not disclose or fairly suggest adjusting the timing of a base station in accordance with signals received from a mobile unit, then providing the mobile unit with a pilot PN code offset, and finally transmitting signals at successively increasing power levels until the mobile station detects the signals.

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16. Regarding claims 55 and 56, the prior art does not disclose or fairly suggest receiving signals from a mobile, using the received signals to adjust the timing, and then synchronizing the timing to another base station in communication with the mobile unit.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 7:00-4:30 with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel J. Ryman  
Examiner  
Art Unit 2665

*DJR*



HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600